

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ALLEN A. ABNEY,

Plaintiff,

v.

CORRECTIONAL OFFICER JOPP,
LIEUTENANT SHRADER and
CAPTAIN GUNTHER,

Defendants.

DECISION & ORDER

05-CV-6487L

Plaintiff in the above-captioned matter has filed a *pro se* Complaint pursuant to 42 U.S.C. § 1983, alleging that defendants violated his constitutional rights because they endangered his life by revealing to other inmates that he was a “snitch” and failed to address his grievances. (Docket # 1). Currently before this Court is plaintiff’s motion to compel discovery. (Docket # 21). Specifically, plaintiff’s motion states:

I would like access to reports from the investigation done by the facility concerning this matter. I would like to get sworn affidavits from each witness who is detained in a facility. I would like the court to set a date for trial. I would like to ask the court to grant me the 2.5 million dollars that I am asking for in damages.

(Docket # 21). In their response to plaintiff’s motion, defendants provided numerous documents relating to an investigation of the events raised in plaintiff’s complaint. Defendants object to the additional relief sought in plaintiff’s motion. (Docket # 25).

Rule 37 of the Federal Rules of Civil Procedure provides that if a party fails to comply with its mandatory disclosure requirements or fails to respond to a proper discovery

request, the aggrieved party may file a motion with the court to compel the production of such discovery. Fed. R. Civ. P. 37(a)(1)-(2). In this matter, it appears that defendants have produced the documents that are the subject of plaintiff's motion. Accordingly, to the extent he seeks to compel the production of such documents, plaintiff's motion (**Docket # 21**) is **DENIED as MOOT**. If, upon review of the disclosed materials, plaintiff believes that he is entitled to additional documents that have not been provided, he may file a new motion at that time. To the extent plaintiff has also requested, without any legal basis for such request, that he be provided with third party affidavits, the setting of a trial date and monetary damages, such motion (**Docket # 21**) is hereby **DENIED**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
August 2, 2007